

Subtitle A—Health Care Services

SEC. 701. PHARMACY BENEFITS PROGRAM.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074f the following new section:

“§ 1074g. Pharmacy benefits program

“(a) PHARMACY BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall establish an effective, efficient, integrated pharmacy benefits program under this chapter (hereinafter in this section referred to as the ‘pharmacy benefits program’).

“(2)(A) The pharmacy benefits program shall include a uniform formulary of pharmaceutical agents, which shall assure the availability of pharmaceutical agents in the complete range of therapeutic classes. The selection for inclusion on the uniform formulary of particular pharmaceutical agents in each therapeutic class shall be based on the relative clinical and cost effectiveness of the agents in such class.

“(B) In considering the relative clinical effectiveness of agents under subparagraph (A), the Secretary shall presume inclusion in a therapeutic class of a pharmaceutical agent, unless the Pharmacy and Therapeutics Committee established under subsection (b) finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other drugs included on the uniform formulary.

“(C) In considering the relative cost effectiveness of agents under subparagraph (A), the Secretary shall rely on the evaluation by the Pharmacy and Therapeutics Committee of the costs of agents in a therapeutic class in relation to the safety, effectiveness, and clinical outcomes of such agents.

“(D) The Secretary shall establish procedures for the selection of particular pharmaceutical agents for the uniform formulary. Such procedures shall be established so as best to accomplish, in the judgment of the Secretary, the objectives set forth in paragraph (1). No pharmaceutical agent may be excluded from the uniform formulary except upon the recommendation of the Pharmacy and Therapeutics Committee. The Secretary shall begin to implement the uniform formulary not later than October 1, 2000.

Procedures.

“(E) Pharmaceutical agents included on the uniform formulary shall be available to eligible covered beneficiaries through—

Deadline.

“(i) facilities of the uniformed services, consistent with the scope of health care services offered in such facilities;

“(ii) retail pharmacies designated or eligible under the TRICARE program or the Civilian Health and Medical Program of the Uniformed Services to provide pharmaceutical agents to covered beneficiaries; or

“(iii) the national mail-order pharmacy program.

“(3) The pharmacy benefits program shall assure the availability of clinically appropriate pharmaceutical agents to members of the armed forces, including, where appropriate, agents not included on the uniform formulary described in paragraph (2).

“(4) The pharmacy benefits program may provide that prior authorization be required for certain pharmaceutical agents to assure that the use of such agents is clinically appropriate.

“(5) The pharmacy benefits program shall assure the availability to eligible covered beneficiaries of pharmaceutical agents not included on the uniform formulary. Such pharmaceutical agents shall be available through at least one of the means described in paragraph (2)(E) under terms and conditions that may include cost sharing by the eligible covered beneficiary in addition to any such cost sharing applicable to agents on the uniform formulary.

“(6) The Secretary, as part of the regulations established under subsection (g), may establish cost sharing requirements (which may be established as a percentage or fixed dollar amount) under the pharmacy benefits program for generic, formulary, and nonformulary agents. For nonformulary agents, cost sharing shall be consistent with common industry practice and not in excess of amounts generally comparable to 20 percent for beneficiaries covered by section 1079 of this title or 25 percent for beneficiaries covered by section 1086 of this title.

Procedures.

“(7) The Secretary shall establish procedures for eligible covered beneficiaries to receive pharmaceutical agents not included on the uniform formulary, but, considered to be clinically necessary. Such procedures shall include peer review procedures under which the Secretary may determine that there is a clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary, in which case the pharmaceutical agent shall be provided under the same terms and conditions as an agent on the uniform formulary. Such procedures shall also include an expeditious appeals process for an eligible covered beneficiary, or a network or uniformed provider on behalf of the beneficiary, to establish clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary.

“(8) In carrying out this subsection, the Secretary shall ensure that an eligible covered beneficiary may continue to receive coverage for any maintenance pharmaceutical that is not on the uniform formulary and that was prescribed for the beneficiary before the date of the enactment of this section and stabilized the medical condition of the beneficiary.

“(b) ESTABLISHMENT OF COMMITTEE.—(1) The Secretary of Defense shall, in consultation with the Secretaries of the military departments, establish a Pharmacy and Therapeutics Committee for the purpose of developing the uniform formulary of pharmaceutical agents required by subsection (a), reviewing such formulary on a periodic basis, and making additional recommendations regarding the formulary as the committee determines necessary and appropriate. The committee shall include representatives of pharmacies of the uniformed services facilities, contractors responsible for the TRICARE retail pharmacy program, contractors responsible for the national mail-order pharmacy program, providers in facilities of the uniformed services, and TRICARE network providers. Committee members shall have expertise in treating the medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations. The committee shall function under procedures established by the Secretary under the regulations required by subsection (g).

Procedures.

“(2) Not later than 90 days after the establishment of the Pharmacy and Therapeutics Committee by the Secretary, the committee shall convene to design a proposed uniform formulary for submission to the Secretary. After such 90-day period, the committee shall meet at least quarterly and shall, during meetings, consider for inclusion on the uniform formulary under the standards established in subsection (a) any drugs newly approved by the Food and Drug Administration.

Deadline.

“(c) ADVISORY PANEL.—(1) Concurrent with the establishment of the Pharmacy and Therapeutics Committee under subsection (b), the Secretary shall establish a Uniform Formulary Beneficiary Advisory Panel to review and comment on the development of the uniform formulary. The Secretary shall consider the comments of the panel before implementing the uniform formulary or implementing changes to the uniform formulary.

Establishment.

“(2) The Secretary shall determine the size and membership of the panel established under paragraph (1), which shall include members that represent nongovernmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries.

“(d) PROCEDURES.—(1) In the operation of the pharmacy benefits program under subsection (a), the Secretary of Defense shall assure through management and new contractual arrangements that financial resources are aligned such that the cost of prescriptions is borne by the organization that is financially responsible for the health care of the eligible covered beneficiary.

“(2) Not later than 6 months after the date of the enactment of this section, the Secretary shall utilize a modification to the bid price adjustment methodology in the current managed care support contracts to ensure equitable and timely reimbursement to the TRICARE managed care support contractors for pharmaceutical products delivered in the nonmilitary environments. The methodology shall take into account the “at-risk” nature of the contracts as well as managed care support contractor pharmacy costs attributable to changes to pharmacy service or formulary management at military medical treatment facilities, and other military activities and policies that affect costs of pharmacy benefits provided through the Civilian Health and Medical Program of the Uniformed Services. The methodology shall also account for military treatment facility costs attributable to the delivery of pharmaceutical products in the military facility environment which were prescribed by a network provider.

Deadline.

“(e) PHARMACY DATA TRANSACTION SERVICE.—Not later than April 1, 2000, the Secretary of Defense shall implement the use of the Pharmacy Data Transaction Service in all fixed facilities of the uniformed services under the jurisdiction of the Secretary, the TRICARE retail pharmacy program, and the national mail-order pharmacy program.

Deadline.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘eligible covered beneficiary’ means a covered beneficiary for whom eligibility to receive pharmacy benefits through the means described in subsection (a)(2)(E) is established under this chapter or another provision of law; and

“(2) the term ‘pharmaceutical agent’ means drugs, biological products, and medical devices under the regulatory authority of the Food and Drug Administration.

“(g) REGULATIONS.—The Secretary of Defense shall, after consultation with the other administering Secretaries, promulgate regulations to carry out this section.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074f the following new item:

“1074g. Pharmacy benefits program.”.

10 USC 1074g
note.

(b) DEADLINE FOR ESTABLISHMENT OF COMMITTEE.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall establish the Pharmacy and Therapeutics Committee required by section 1074g(b) of title 10, United States Code.

Deadline.
10 USC 1074g
note.

(c) REPORTS REQUIRED.—Not later than April 1 and October 1 of fiscal years 2000 and 2001, the Secretary of Defense shall submit to Congress a report on—

(1) implementation of the uniform formulary required under subsection (a) of section 1074g of title 10, United States Code (as added by subsection (a));

(2) the results of a confidential survey conducted by the Secretary of prescribers for military medical treatment facilities and TRICARE contractors to determine—

(A) during the most recent fiscal year, how often prescribers attempted to prescribe non-formulary or non-preferred prescription drugs, how often such prescribers were able to do so, and whether covered beneficiaries were able to fill such prescriptions without undue delay;

(B) the understanding by prescribers of the reasons that military medical treatment facilities or civilian contractors preferred certain pharmaceuticals to others; and

(C) the impact of any restrictions on access to non-formulary prescriptions on the clinical decisions of the prescribers and the aggregate cost, quality, and accessibility of health care provided to covered beneficiaries;

(3) the operation of the Pharmacy Data Transaction Service required by subsection (e) of such section 1074g; and

(4) any other actions taken by the Secretary to improve management of the pharmacy benefits program under such section.

10 USC 1074g
note.
Deadline.

(d) STUDY FOR DESIGN OF PHARMACY BENEFIT FOR CERTAIN COVERED BENEFICIARIES.—(1) Not later than April 15, 2001, the Secretary of Defense shall prepare and submit to Congress—

(A) a study on a design for a comprehensive pharmacy benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to benefits under part A, and enrolled under part B, of title XVIII of the Social Security Act; and

(B) an estimate of the costs of implementing and operating such design.

(2) The design described in paragraph (1)(A) shall incorporate the elements of the pharmacy benefits program required to be established under section 1074g of title 10, United States Code (as added by subsection (a)).

SEC. 702. PROVISION OF CHIROPRACTIC HEALTH CARE.

(a) IN GENERAL.—Section 731 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1092 note) is amended—